

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, November 21, 2006
Time: 6:00 p.m. Closed Session, 7:08 p.m. Public Business
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

Mayor Esteves called the meeting to order at 6:00 PM.

PRESENT: Mayor Esteves, Councilmembers Giordano, Livengood and Polanski. Vice Mayor Gomez arrived at 6:01 p.m.

ABSENT: None

CLOSED SESSION

Mayor Esteves publicly stated the Council would convene in Closed Session to discuss the following issues:

- 1) **PUBLIC EMPLOYEE APPOINTMENT/EMPLOYMENT**
(Pursuant to California Government Code §54957)
- 2) **CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
(Pursuant to CA Government Code §54957.6) City Negotiator: Carmen Valdez
Employee Organizations: Milpitas Professional and Technical Group (ProTech),
Milpitas Mid Management/Confidential (LIUNA)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
- 3) **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
(Pursuant to California Government Code §54956.9(a))
 - City of Milpitas v. Turner Construction et al., Santa Clara County Superior Court
Case No. 103CV815946 Consolidated with Case No. 103CV0084002
 - Scott Sizar vs. the City of Milpitas, Case Nos. OAK – 0309775, OAK – 0219858

The City Council reconvened in Open Session at 7:08 p.m. with Mayor Esteves presiding and all Councilmembers present.

CLOSED SESSION ANNOUNCEMENT

There were no announcements.

PLEDGE

Boy Scouts Troop No. 92 Color Guard led the Pledge of Allegiance.

INVOCATION

Mayor Esteves led a minute of silence.

MINUTES

Motion: to approve minutes of November 7, 2006 City Council meetings

Motion/Second: Councilmember Polanski/Councilmember Livengood

Motion carried by a vote of: AYES: 5
NOES: 0

SCHEDULE OF MEETINGS

Steve Mattas, City Attorney, requested the Schedule of Meetings be moved to after the end of the Redevelopment Agency meeting due to a potential November 29 meeting staff will be requesting

during the Redevelopment Agency portion of the meeting. It was the consensus of the Council to address this item after the RDA meeting.

Councilmember Polanski reported that the Community Advisory Commission cancelled their December 6 meeting due to the Tree Lighting Ceremony and holidays.

City Attorney Mattas requested an adjourned meeting of the Council on November 29 at 6:00 p.m., and a Special City Council meeting also at 6:00 p.m. on November 29, to discuss a lot line adjustment resolution as well as direction given to him earlier by the Council.

Charles Lawson, City Manager, reported the Sister Cities Commission cancelled their December 28 meeting.

Motion: to approved the Schedule of meetings as amended.

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

Motion: to approve a joint Adjourned Meeting and a Special Meeting of the Redevelopment Agency/City Council on November 29 at 6:00 p.m.

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

PRESENTATION

Mayor Esteves, assisted by Gloria Anaya, Senior Housing and Neighborhood Preservation Specialist, presented awards to the winners of the Seventh Annual Neighborhood Beautification Awards as follows:

Building a Sense of Community

Winner: Peggy Horyza – St. John the Baptist Church and School

Attractive Non-Residential

Winner: Peggy Horyza- St. John the Baptist Church and School

Staff Choice Award

Winner: Mark B. Ligon and Craig Fuller- 325 N. Park Victoria Drive

Central Area

Attractive Residential

Winner: Syed and Asiya Asif – 812 Canada Drive

Nomination

Efren Partida – 508 Singley Drive

Attractive Multi-Family Units

Winner: Dimtrey Tadeney- 120 Dixon Road, Space 73

Nomination

Gary Taylor- 120 Dixon Road, Space 74

Attractive Homeowners Associations

Winner: Rueben Baltazar- Foothill Square - 971 Sandalridge Court

Nomination

Mr. & Mrs. Huang – Beresford - 278 Woodward Drive

Hillside Area

Attractive Residential

Winner: Ken and Lydia Burke – 1133 N. Park Victoria Drive

Nomination

Mr. & Mrs. Mujtaba - 2237 N. Park Victoria Drive

Attractive Homeowners Association

Winner: Gerald and Sharon Fedor – Summit Pointe- 1627 Pebble Beach Court

East Valley Floor Area

Attractive Residential

Winner: Gustavo and Maria Soria – 97 Park Hill Drive

Nominations

Javier Rodriguez - 201 N. Park Victoria Drive

Hai (Heidi) Pham – 1278 Traughber St.

Attractive Multi-Family Units

Winner: Nicolas and Elva Tenzing – 1311 Chewpon Avenue

Nomination

Mai Rafe – 1289 Chewpon Avenue

Attractive Homeowners Associations

Winner: Yan Xu and Ziyang Liu – Hill Crest Villas -2320 Farmcrest Street

West Area

Attractive Residential

Winner: Donna and Pham Khoung – 822 Calero Street

Nominations

Orfil and Martha Garcia – 667 Lexington Street

Bill and Liz Deaver - 210 Butler Street

Attractive Multi-Family Units

Winner: Quynh Vu and Thi Pham – 1691 Starlite

Attractive Homeowners Association

Winner: William Le - Starlite Pines - 1604 Fallen Leaf Drive

Nomination

Dennis and Linda Graham- Starlite Pines - 1592 Fallen Leaf Drive

The Council convened to a reception at 7:24 p.m. and reconvened at 7:38 p.m.

PUBLIC FORUM

Peter Nelson, of Santa Cruz, stated he filed an appeal with the City regarding a fee. He expressed concern regarding Fire Department fees that he considers excessive. He expressed dismay over his legal fees for this appeal and inquired if the Council had heard of his appeal or if they would be willing to hear it. He left documentation with the Deputy City Clerk. City Attorney Mattas responded he would provide a report to the Council and respond to Mr. Nelson, with their permission. He stated he would be in touch with Mr. Nelson on Wednesday or next Monday.

ANNOUNCEMENTS

City Manager Lawson announced the appointment of Carmen Valdez as the Human Resources Director.

Councilmember Polanski thanked staff and the community for the Veterans Day Ceremony. She further thanked staff and the Chamber of Commerce for a successful Chamber Mixer.

Mayor Esteves requested an agenda item be added to the December 5 Council meeting for a discussion regarding a workshop for councilmembers for strategic planning to establish goals, priorities and discuss issues and the budget. He will be asking the Council to select a time and date. He requested staff provide a facilitator.

Mayor Esteves solicited for applications for the Planning Commission. He stated all applications are due to the City Clerk's office by November 29. He will review applications and interview candidates on December 2. He will make recommendations for Planning Commission appointments at the December 19 Council meeting.

Mayor Esteves requested a report on the crime status in the City. He advocated for citizens to advise the City Manager of any crime issues.

Mayor Esteves requested an update and progress report on odor problems.

Mayor Esteves requested an update on the on-line payment system.

**ANNOUNCEMENT OF
CONFLICT OF INTEREST**

None

APPROVAL OF AGENDA

City Manager Lawson requested item number 5 be continued to the December 19 Council meeting and item number 10 be continued to the December 5 meeting.

Motion: to approve the agenda, as amended.

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted by an *asterisk), as submitted

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

***1.** Approve Mayor's
Recommendation for Donation
to Curtner Elementary School

Approved the Mayor's recommendation of a donation in the amount of \$500 to Curtner Elementary School Walk-a-Thon.

***2.** Approve Mayor's
Recommendations for
Reappointments to
Commissions

Arts Commission
Re-appointed Richard Tsuei to Alternate No. 1 to a term that expires in October 2008.
Recycling and Source Reduction Advisory Commission
Appointed Hong Chen to a regular term that expires in October 2009.
Appointed John Cimino, as the institutional representative voting member, to a term that expires in October 2009.
Sister Cities Commission
Re-appointed Massoud Arefi to a term that expires in September 2009.

***4.** Approve Amendment to
Bylaws for the
Telecommunications
Commission

Approved the amendment to the Telecommunications Commission Bylaws regarding attendance, Section 12.

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| *6. Approve City of Milpitas Standard Inclusion Policy | Approved Parks and Recreation Inclusion Policy for People with Disabilities as standard procedure. |
| *7. Authorize Budget Transfer for Teen Center Purchases | Authorized budget transfer of \$4,444 to the Teen Center's operating budget. |
| *8. Adopt Resolution Granting Initial Acceptance: South Park Victoria Drive Pavement Rehabilitation | Adopted Resolution No. 7637 granting initial acceptance of the project subject to the one-year warranty period and reduction of the faithful performance bond to \$136,960. |
| *9. Adopt Resolution Granting Initial Acceptance: 2006 Street Slurry Project | Adopted Resolution No. 7638 granting initial acceptance of the project subject to the one year warranty period and reduction of the faithful performance bond to \$15,872.10. |
| *11. Review Tiered Water Rates and Approve Consultant Agreement for Utility Rate Study | Appropriated funds from the Water, Recycled Water, and Wastewater Fund. Authorized the City Manager to execute the consultant agreement with Bartle Wells Associates for \$40,435, subject to approval as to form by the City Attorney. |

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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| RA1. CALL TO ORDER | Mayor/Agency Chairman Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 7:50 p.m. |
| RA2. ROLL CALL | <p>PRESENT: Mayor/Chair Esteves, Vice Mayor/Vice Chair Gomez and Agency/Councilmembers Giordano, Livengood and Polanski</p> <p>ABSENT: None</p> |
| RA3. MEETING MINUTES | <p><u>Motion:</u> to approve the Joint Redevelopment Agency/City Council minutes of November 7, 2006 as submitted.</p> <p>Motion/Second: Agency/Councilmember Livengood/Agency/Councilmember Polanski</p> <p>Motion carried by a vote of: AYES: 5
NOES: 0</p> |
| RA4. Approval of Agenda and Consent Calendar | <p>Agency/Councilmember Giordano requested item RA7 be heard first.</p> <p><u>Motion:</u> to approve the agenda and RDA consent calendar as amended.</p> <p>Motion/Second: Agency/Councilmember Giordano/Vice Chair/Vice Mayor Gomez</p> <p>Motion carried by a vote of: AYES: 5
NOES: 0</p> |

PUBLIC HEARING

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| RA5. Proposed Merger Amendments for Redevelopment Project Area No. 1 and the Great Mall | <p>Chair/Mayor Esteves announced the purpose of this meeting is to conduct a joint public hearing on the proposed Redevelopment Plan Amendments.</p> <p>Diana Whitecar, Economic Development Manager, presented the staff report. Her presentation included the history, amendments' language, purpose of the amendments, history, goals, the California Outdoor Advertising Act, and public outreach and noticing, noting that public outreach meetings were held on October 18 and November 1. She reported the proposed amendment projects are to renovate two existing Great Mall freeway signs, install up to three new freeway signs, include electronic reader board components in at least two of the total five signs, and have up to 25 lower profile way finding signs along surface streets in the redevelopment areas. She stated the</p> |
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Motion: adopt Resolution No. RA275 of the Redevelopment Agency Approving the Redevelopment Plan Amendments to Merge the Milpitas Redevelopment Project Area No. 1 and the Great Mall Redevelopment Project Area.

Motion/Second: Agency/Councilmember Livengood/Agency/Councilmember Polanski.

Motion carried by a vote of: AYES: 5
NOES: 0

Motion: adopt Resolution No. 7635 of the City Council Adopting Mitigation Findings, Findings Regarding Alternatives, a Statement of Overriding Considerations, and a Mitigation, Monitoring and Reporting Program for the Proposed Merger of the Milpitas Redevelopment Plan for Redevelopment Project Area No. 1 and Great Mall Project Area.

Motion/Second: Agency/Councilmember Polanski/Vice Chair/Vice Mayor Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

Motion: to waive the first reading beyond the title and introduce Ordinance No. 192.18, which City Attorney Mattas read into the record, "An Ordinance of the City Council of the City of Milpitas, California, amending Ordinance No. 192, as previously amended, and approving and adopting the Eleventh Amendment to the Redevelopment Plan for the Milpitas Redevelopment Project No. 1."

Motion/Second: Vice Chair/Vice Mayor Gomez/Agency/Councilmember Livengood

Motion carried by a vote of: AYES: 5
NOES: 0

Motion: to waive the first reading beyond the title and introduce Ordinance No. 192.19, which City Attorney Mattas read into the record, "An Ordinance of the City Council of the City of Milpitas, California, amending Ordinance 192.8, as previously amended, and approving and adopting the Fourth Amendment to the Redevelopment Plan for the Great Mall Redevelopment Project Area."

Motion/Second: Vice Chair/Vice Mayor Gomez/ Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

RA6. Progress Report on Library and East Parking Garage

Mark Rogge, Redevelopment Manager, presented the staff report. He noted the Library Subcommittee met on October 24 and heard a progress report on the library, parking garage, and No. Main Street development. He reported the Library is currently in the bidding stage and bids are due on December 12, 2006. The parking garage contractor, Devcon Construction, has completed all production and ground improvement piles and has begun installing pile caps, tie-beams and building utilities. He presented slides on the project design schedule, bidding schedule, building permit process, expenditures to date, cost plans, library features and completed work.

Agency/Councilmember Livengood inquired if the garage is covered for potential damage from the library construction. Mr. Rogge responded this issue will be addressed.

RA7. Approval of Amendments to Terrace

Felix Reliford, Principal Housing Planner, presented the staff report. He gave a brief history and stated from 1989 to 2006, rents at Terrace Gardens increased by 55%

Gardens Regulatory Agreement

where expense to operate the facility have increased 115% over the same period. This has resulted in a three year deficit exceeding \$250,000. The Terrace Gardens Board of Directors conducted a financial audit and approved several amendments to the Regulatory Agreement at their July 27, 2006 meeting. The Board of Directors felt the proposed amendments to the Regulatory Agreement will allow Terrace Gardens to operate the senior housing facility on a more stable financial basis. He stated the proposed amendments include a revised rent structure increase of \$10-32 per month, and the proposed amendments to the Regulatory Agreement will require the Board to establish adequate reserve funding, link the annual operating budget with reserve funding, establish permanent affordability criteria, establish affordable rents, and make minor amendments to the Regulatory Agreement for greater clarification.

Mari Tustin, Senior Vice President of The John Stewart Company, presented the new rent structure. She reviewed the research and analysis done by the Board of Directors that included the formation of a Finance Committee and a Food Service Committee. She stated the purpose of the revisions are to establish permanent affordability restrictions and create long term financial stability for Terrace Gardens. She further reviewed the revisions, current rents, and projected rents. She reported these proposed changes have been approved by the Board of Directors of Terrace Gardens and by legal counsels for the City and Terrace Gardens.

Chair/Mayor Esteves inquired about the financial status of Terrace Gardens and if the City had any financial obligation. Ms. Tustin responded that without taking steps now, the reserves would run out in about ten years, and that Terrace Gardens is a separate entity. However, if Terrace Gardens were to use all reserves, the City would probably be the only benefactor, which would be at discretion of the Council. He requested that she fax a copy of the financial analysis and trends to the City Clerk. Mayor Esteves further inquired about rent caps, affordability and the meal program expenses.

Felix Reliford, Principal Housing Planner, stated that the City would be applying for grants to ease the financial burden.

Eli, of 1825 Forrest Court, inquired about the conflict of interest code with a Terrace Gardens Board Member on the City Council. City Attorney Mattas replied that Councilmember Giordano represented the City on the Board.

Chair/Mayor Esteves complimented the Board for their report and fiscal responsibility.

Richard Ruth, a member of the Terrace Gardens of Directors, reported that Andrew La is and Jerry Rosenquist are on the Board of Directors and are both CPA's, who provide financial guidance.

Agency/Councilmember Livengood complimented the Terrace Gardens Board of Directors and staff on the fiscal sophistication of the proposal and the team effort to protect it.

Motion: to approve the amendments and the restatement of the Regulatory Agreement with Terrace Gardens.

Motion/Second: Agency/Councilmember Giordano/Vice Chair/Vice Mayor Gomez

Motion carried by a vote of:

AYES: 5

NOES: 0

***RA8.** Resolution Granting Final Acceptance of ADA Sidewalk/ Building Improvements

Adopted Resolution No. RA276 granting final acceptance of Projects No. 4226 and No. 8135, and release the contractor's bond.

***RA9.** Approve Contract Change Order with JJR Construction

Approved contract change order with JJR Construction in the amount of \$40,000 for general construction services for Projects No. 8161 and No. 8162.

***RA10.** Authorize City Manager to Execute Contract with Vernazza Wolfe Associates for Housing Marketing Study

Approved the contract agreement with Vernazza Wolfe Associates, Inc. to prepare the Housing Marketing Study in an amount not-to-exceed \$77,215 from the Redevelopment Agency 20% Low Income Housing Set Aside Funds.

RA.11. ADJOURNMENT

Chair/Mayor Esteves adjourned the meeting at 9:14 p.m.

REPORT OF OFFICER

3. Discussion of Oakland A's Proposed Move to Fremont

Councilmember Livengood expressed concern that the proposed location of the new stadium in Fremont is three miles from the border of Milpitas and may have an impact on the roadways and quality of life in Milpitas. He requested a meeting between the elected officials of Fremont and Milpitas, and the staffs of Fremont and Milpitas for information gathering.

City Manager Lawson reported that the public relations staff of the Oakland A's has contacted the City and there is a meeting scheduled in early December. Councilmember Livengood reaffirmed he would like the proposed meetings to go forward to address traffic concerns.

Councilmember Polanski suggested the Councilmembers on the Transportation Subcommittee meet with the City of Fremont elected officials.

Mayor Esteves requested staff proceed with setting up a meeting with the staff of the City of Fremont.

NEW BUSINESS

5. Update on Status of Transit Area Specific Plan

Continued to the December 19, 2006 City Council meeting.

BIDS AND CONTRACTS

10. Award Construction Contract for Main Sewage Pump Station

Continued to the December 5, 2006 City Council meeting.

REPORT OF OFFICERS

Three items were adopted on the Consent Calendar.

NEW BUSINESS

Two items were adopted on the Consent Calendar.

RESOLUTIONS

Two Resolutions were adopted on the Consent Calendar.

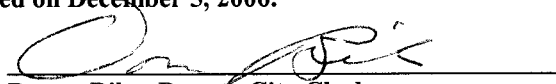
BIDS AND CONTRACTS

One item was adopted on the Consent Calendar.

ADJOURNMENT

Mayor Esteves adjourned the meeting at 9:20 p.m. to November 29, 2006 at 6:00 p.m.

The foregoing minutes were approved by the Milpitas City Council as submitted on December 5, 2006.


Donna Biles, Deputy City Clerk